

REMARKS

Claims 1-4 and 6 and 13 are pending in this application. Claim 1 is amended above to include many of the features of claim 5. Claim 5 is accordingly cancelled from the application. Claim 2 is converted into independent form above. New claim 13 is also added to the application by this amendment. No new matter is added to the application by these claim amendments.

The examiner's specification and claim rejections are overcome or they are traversed as set forth below.

I. THE RESTRICTION REQUIREMENT

The Applicant's have elected to proceed with the examination of claim 1-6 of the pending application. Accordingly, claims 7-12 are cancelled from the application above.

II. THE INFORMATION DISCLOSURE STATEMENT

The examiner objected to the 4/2/2004 (mailed by the applicant on March 20, 2004) and the 9/19/2005 IDS'. It is noted that the examiner identifies 6 references by "*" in the March 30, 2004 form 1449 and indicates that the cited patents were not received. Moreover, the examiner struck two additional references in the IDS' and did not initial them. The stricken references are WO 94/04162 and Zhang et al. *Studies of Polysaccharides of Codonopsis Pilosula*, Zong Zao Yoa, Vol. 18, pp 2-4 (1987).

Regarding the foreign patent references that the examiner identified by "*" in the December 31, 2003 form 1449, the applicants are submitting a Supplemental Information Disclosure Statement contemporaneously with the filing of this Reply. In the Supplemental IDS, only the abstracts of the recited patents are cited because only the abstracts were cited as being pertinent to the examination of claims in corresponding Taiwan patent application number 092137647.

The examiner did not consider WO 94/04162 in the March 30, 2004 IDS. The reference is cited once again in the IDS submitted contemporaneously with the filing of this Reply. Please note that WO 94/04162 corresponds to PCT/US92/07134.

The examiner did not consider Zhang et al. *Studies of Polysaccharides of Codonopsis Pilosula*, Zong Zao Yoa, Vol. 18, pp 2-4 (1987) which was cited in the March 30, 2004 IDS. The examiner's failure to consider the Zhang et al. reference is in error. The applicants submitted a

Statement of Relevancy of the Zhang et al. reference with the letter accompanying the March 30, 2004 IDS. A copy of the Statement of Relevancy is attached to this Reply as Appendix B. The examiner is reminded that the applicants must either provide an English translation of a foreign language reference or, if a translation is not provided, the applicants must provide a Statement of Relevancy of the foreign language reference. The applicants have satisfied their burden by supplying a Statement of Relevancy of the Zhang et al. reference. The examiner is, therefore asked to acknowledge consideration of the Zhang et al. reference in this case.

III. THE ANTICIPATION REJECTION

A. Traverse of the Rejection of Claims 1 and 3-6 Over The Kexin et al. Article

The examiner rejected claims 1 and 3-6 for being anticipated by the Kexin et al. article. It is the examiner's position that Kexin et al. discloses the use of Shenqui Fuzheng. Moreover, it is the examiner's position that Shenqui Fuzheng includes the same components as the invention set forth in claim 1.

One of the applicants tested the composition of Kexin et al. against the claimed composition and determined that the composition behave differently. The attached Declaration which describes the testing and results, establishes that the claimed composition is not the same as the Kexin et al. composition. Please note that the animals were administered 10 mL/kg of SGHF, SGFD or CP. As such a dosage is commonly used in animal models. The dosage of SGHF and SGFD are reported as g/kg. However because the concentration date of the commercial CP was unavailable to the Declarant, the CP dosage is present in mL/kg units.

In particular, the experiments described in the specification illustrate the result that the *Astragalus radix* and *Codonopsis pilosulae radix* mixed extract prepared according to the subject invention has a significant effect on inhibiting carcinogenesis and metastasis. In contrast, Shenqi Fuzheng described by Zhou Kexin et al. (Chinese Journal of Combined Traditional and Modern Medicine 1999; 19:11-13) fails to show a significant effect on inhibiting carcinogenesis and metastasis. For at least this reason, the examiner's rejection of claims 1 and 3-6 over Kexin et al. should be withdrawn.

B. Traverse of the Rejection of Claims 1-6 Over Chen et al.

The examiner rejected claims 1-6 for being anticipated by Chen et al. (US 2004/015902). It is the examiner's position that Chen et al. discloses a composition for treating prostate cancer wherein the compositions comprises a therapeutic effective amount of *Astragalus radix* and *Codonopsis pilosulae radix*.

The portion of Chen et al. cited by the examiner does not disclose or suggest the claimed invention. Indeed, paragraph 17 on page 2 of Chen et al. discloses a laundry list of compositions that are useful for improving performance of the digestive system. Nowhere does Chen et al. disclose or suggest the combination of the two ingredients covered by the inventors. Indeed, the inventors, in the application examples, demonstrate that the combination provides a synergistic effect in comparison to administration of the individual compositions. Chen fails to illustrate the effect of a composition comprising only *Astragalus radix* and *Codonopsis pilosulae radix*. For at least this reason claims 1-6 are not anticipated by Chen.

In addition, Chen et al. does not disclose the ratios of the two active ingredients disclosed in claim 2. Claim 2 is converted into independent form in this Reply and is believed to be independently patentable over Chen et al.

III. NEW CLAIM 13 IS PATENTABLE

New claim 13 is added above to the application. New claim 13 includes the features of original claims 1, 2 and 5 and also uses "consistently essentially of" language to claim the composition active ingredients. Claim 13 is believed to be patentable over the prior art of record.

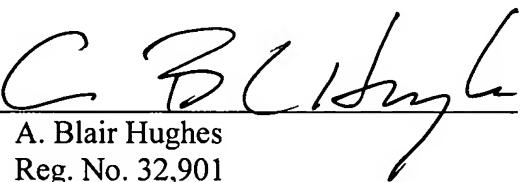
CONCLUSION

Claims 1-4, 6 and 13 are believed to patentable for the reasons indicated above. Favorable reconsideration and allowance of all pending application claims is, therefore, courteously solicited.

McDonnell Boehnen Hulbert & Berghoff LLP

Date: June 23, 2006

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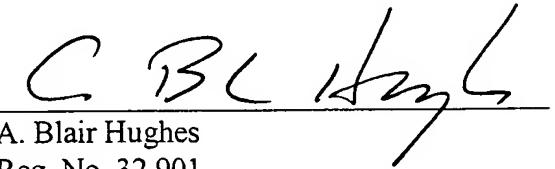
Statement of Relevancy

The Zhang et al. "Studies of Polysaccharides of Codonopsis Pilosula" Zhong Zao Yoa, Vol. 18, pp. 2-4 (1987) is not provided in English. However, the relevancy of the reference is disclosed and discussed in the specification at page 4, lines 26-27 where it is indicated that Zhang et al. discloses a series of water-soluble polysaccharides such as CP-1, CP-2, CP-3 and CP-4 that have been isolated from the roots of *C. polisula*.

Respectfully submitted,
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Dated: March 30, 2004

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